

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THOMAS SIERRA, ) Docket No. 18 C 3029  
)  
Plaintiff, )  
)  
v. ) Chicago, Illinois  
) November 7, 2018  
REYNALDO GUEVARA, et al., ) 9:00 o'clock a.m.  
)  
Defendants. )

TRANSCRIPT OF PROCEEDINGS - MOTION  
BEFORE THE HONORABLE JOHN Z. LEE

APPEARANCES:

For the Plaintiff: LOEVY & LOEVY, by  
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For Defendant Guevara: LEINENWEBER BARONI & DAFFADA, by  
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For Defendants Halvorsen,  
Mingey, Wojcik, McMurray,  
Figueroa and Biebel: THE SOTOS LAW FIRM, by  
MR. JOSH MICHAEL ENGQUIST  
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For Defendant City of  
Chicago: ROCK FUSCO & CONNELLY, by  
MS. EILEEN ELLEN ROSEN  
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1 (Proceedings had in open court:)

2 THE CLERK: 18 CV 3029, Sierra versus Guevara.

3 MR. STARR: Good morning, your Honor. Sean Starr on  
4 behalf of Mr. Sierra.

5 MS. ROSEN: Good morning, your Honor. Eileen Rosen on  
6 behalf of defendant City of Chicago.

7 MR. ENGQUIST: Good morning, your Honor. Josh  
8 Engquist on behalf of defendants Halvorsen, Mingey, Wojcik,  
9 McMurray, Figueroa and Biebel.

10 MR. LEINENWEBER: Good morning, Judge. Tom  
11 Leinenweber on behalf of defendant Guevara.

12 THE COURT: Good morning.

13 So I understand that there are a number of other cases  
14 involving Officer Guevara, is that correct?

15 MR. STARR: That is correct, your Honor.

16 THE COURT: How many are there?

17 MR. ENGQUIST: There is nine total, including this  
18 one.

19 THE COURT: And is there a Monell discovery proceeding  
20 in those cases?

21 MS. ROSEN: There is not any Monell discovery  
22 proceeding in earnest. The cases are staggered in terms of the  
23 filing dates. And so motions to bifurcate are either filed and  
24 under review or being filed.

25 With respect to the one that is most progressed, the

1 parties have focused on the underlying case. It's the city's  
2 intention to actually file a motion to bifurcate in that one as  
3 well.

4 So there has been no Monell discovery in earnest in  
5 any of the cases so far.

6 MR. STARR: If I may add to that, your Honor? In June  
7 of this year we litigated to conclusion a Guevara case, Rivera  
8 case. And there was Monell discovery in that case as well. So  
9 a lot of discovery has already been conducted.

10 We -- our position is that these -- the Monell issues  
11 are intertwined with the individual liability issues for a  
12 number of reasons that are presented in our response to the  
13 motion to bifurcate.

14 THE COURT: No, I understand. I reviewed all the  
15 briefs with regard to the motion to bifurcate Monell claims.

16 MS. ROSEN: If I can just respond briefly to the  
17 Rivera case. It's the city's position actually that, yes,  
18 there was Monell discovery and there was a Monell claim that  
19 was tried. I think we mentioned that in our -- in our briefs.

20 The time periods are significantly different. So  
21 Rivera was a 1988 arrest and prosecution that concluded in  
22 1990. During that timeframe, Mr. Guevara was a gang crime  
23 specialist, not a detective. All of the other cases are --  
24 have -- are later in the '90s and a detective. And, you know,  
25 the policies and practices of the City of Chicago did not

1 remain static.

2           So from the city's perspective, if we do go forward on  
3 Monell, it's not done from the defense side of it.

4           THE COURT: Okay.

5           MR. STARR: If I can respond to that?

6           THE COURT: No need.

7           So this is my ruling with regard to the defendant City  
8 of Chicago's motion to bifurcate Monell claims: As this  
9 District Court recognized in Awalt v. Marketti, 2012 Westlaw  
10 1161500, Northern District of Illinois, April 9, 2012, the  
11 Seventh Circuit's decision in Thompson v. Cook County Sheriff's  
12 Department, 604 F.3d 293, Seventh Circuit 2009, in this  
13 district at least the clear weight of authority holds that  
14 bifurcation is now heavily disfavored. And indeed, bifurcation  
15 of claims is the general exemption and not the rule.

16           Here having reviewed the arguments made by the  
17 parties, I do not believe that bifurcation of plaintiff's  
18 Monell claims is warranted. First given the issue -- given the  
19 issues that the plaintiff raised in this case in the complaint,  
20 I do not believe that bifurcation of discovery or trial would  
21 materially facilitate the speedy and efficient resolution in  
22 this case. In fact, in my experience, bifurcating Monell  
23 discovery only tends to prolong the case and leads to  
24 unnecessary disputes as to the appropriate scope of non-Monell  
25 versus Monell discovery.

1           This is particularly true in a case like this, where  
2 the city has been engaged in Monell discovery in similar cases.  
3 And while the Monell discovery may not completely overlap or  
4 even substantially overlap, the city certainly has a good start  
5 on how it would go about searching for discovery that would be  
6 the subject of plaintiff's Monell claims.

7           As for prejudice to the city, it argues that the  
8 fact -- it argues that introduction of Monell discovery, Monell  
9 evidence, during the trial would be unduly prejudicial to the  
10 individual defendants. This may be so, but this is an issue  
11 that we can deal with as part of the pretrial conference as the  
12 case heads to trial, when I will have a better sense of exactly  
13 what the parties will want to introduce at trial and how the  
14 offered evidence will be used.

15           On the other hand, the delays that bifurcation of  
16 Monell discovery would cause this case I believe would  
17 prejudice plaintiff's interests in achieving a speedy  
18 resolution to this matter. For those reasons, defendant city's  
19 motion to bifurcate the Monell claim is denied but denied  
20 without prejudice. So that's my ruling with regard to the  
21 city's motion to bifurcate.

22           So at the moment, I know that we put a schedule in  
23 place, but recognize that the schedule may have to be adapted  
24 based upon the scope of discovery. Currently fact discovery is  
25 set to conclude on June 28, 2019.

1           Given my ruling with regard to Monell discovery, do  
2   you -- do the parties have a sense of how much time they need  
3   for all of the discoveries in this case?

4           MS. ROSEN: Judge, from the defendant's perspective,  
5   if we are going to be fully litigating Monell discovery, the  
6   city's estimate is that it will take at least six months and  
7   probably a year to do the Monell discovery, based on, in fact,  
8   the Rivera case where Monell discovery took three and a half  
9   years. And it was focused -- by the time we got to the Monell  
10   discovery in Rivera, we had pretty much concluded all of the  
11   discovery on the underlying case. So that was three years,  
12   give or take.

13           So, you know, that's our best estimate, looking at it  
14   right now.

15           MR. STARR: And, your Honor, our position is that, you  
16   know, while the time period might be slightly different, the  
17   policies may have changed. The practices in large part didn't.  
18   We think that the schedule that we're currently on is a  
19   schedule that we can achieve, understanding that from the  
20   city's perspective, you know, they have some heavy lifting  
21   potentially to do.

22           But, you know, our position would be to stay on track  
23   and then address this down the line if we need to. We've  
24   made -- we exchanged initial written discovery. And the  
25   responses are due in the next week or so. Maybe on Monday, if

1 I remember correctly. We did the mandatory disclosures as  
2 well.

3 So we feel like we're humming along just fine.

4 THE COURT: All right. I am going to extend the  
5 deadline for fact discovery to September 30, 2019. I am also  
6 going to refer this case to Magistrate Judge Weisman for  
7 discovery supervision, so that he can make sure that the  
8 parties remain on track for that date.

9 For purposes of my calendar, we will set this case for  
10 further status. Carmen, let's look at the week of May 20,  
11 please.

12 THE CLERK: May 22 at 9:00 o'clock.

13 THE COURT: All right. Thank you.

14 MS. ROSEN: Thanks, Judge.

15 MR. ENGQUIST: Thank you.

16 (Which were all the proceedings heard in this case.)

17 CERTIFICATE

18 I HEREBY CERTIFY that the foregoing is a true, correct  
19 and complete transcript of the proceedings had at the hearing  
20 of the aforementioned cause on the day and date hereof.

21

22 /s/Alexandra Roth

11/7/2018

23 \_\_\_\_\_  
24 Official Court Reporter  
25 U.S. District Court  
Northern District of Illinois  
Eastern Division

\_\_\_\_\_  
Date